



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 29, 1996

Ms. Tamara Armstrong
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR96-0821

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 36570.

Travis County (the "county") received a request for "all files, records and any other documents in the possession of the Travis County District Attorney's office pertaining to the arrest, investigation, and trial of Fran and Dan Keller, cause no. 91-4217 and 91-4220 in the 147th District Court of Travis County." You claim that, as the requestor is an attorney who is requesting information on behalf of his clients, two inmates of the Texas Department of Criminal Justice, the county need not respond to the request pursuant to section 552.027 of the Government Code. You claim that, if the county is required to respond to the request, the requested information is excepted from disclosure under sections 552.101, 552.103, and 552.111 of the Government Code.

Section 552.027 of the Government Code provides:

- (a) A governmental body is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility.
- (b) Subsection (a) does not prohibit a governmental body from disclosing to an individual described by that subsection information held by the governmental body pertaining to that individual.

(c) In this section, "correctional facility" has the meaning assigned by Section 1.07(a), Penal Code.¹

Gov't Code § 552.027 (as added by Acts 1995, 74th Leg., ch. 302, § 1) (footnote added). We understand you to suggest that because Mr. Charlton, the person submitting the request, is asking on behalf of two persons who are in prison, Mr. Charlton is acting as these inmates' *agent* and that, therefore, the county may decline to comply with the request. We agree with your construction for two reasons.

First, we are bound to construe statutes in ways so as not to produce an absurd or unreasonable result. *City of Wilmer v. Laidlaw Waste Sys. (Dallas), Inc.*, 890 S.W.2d 459, 465 (Tex. App. - Dallas 1994), *aff'd*, 904 S.W.2d 656 (Tex. 1995); *see State Highway Dept. v. Gorham*, 162 S.W.2d 934 (Tex. 1942); *Anderson v. Penix*, 161 S.W.2d 455 (Tex. 1942). A construction of section 552.027 that would permit a governmental body to decline to comply with a request submitted by an inmate, on the one hand, but that would require the governmental body to comply with one submitted by an inmate's agent, on the other, is absurd on its face. We decline to adopt such a construction.

Second, construing the provision to require a governmental body to comply with a request submitted by an inmate's agent while at the same time permitting that governmental body to ignore a request submitted by the inmate himself would entail a manifest circumvention of the provision and frustrate the obvious intent of the legislature when it enacted section 552.027. A bill analysis for House Bill No. 949 describes the evil that the legislation was designed to prevent:

Currently, Texas inmates are able to receive information through Chapter [552], Government Code (Open Records Act). Through this avenue, inmates have been using information obtained through Chapter [552] to file bogus income tax returns on correctional officers, harass nurses at their home addresses, and send mail to the homes of Texas Department of Criminal Justice employees.

¹Section 1.07(a)(14) of the Penal Code provides:

"Correctional facility" means a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes:

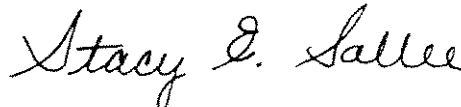
- (A) a municipal or county jail;
- (B) a confinement facility operated by the Texas Department of Criminal Justice;
- (C) a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and
- (D) a community corrections facility operated by a community supervision and corrections department.

Tex. Sen. Criminal Justice Comm., Bill Analysis, Tex. H.B. 949, 74th Leg., R.S. (1995)(quoting from "Background") (available through the Senate Research Center). If an agent of an inmate were permitted to avail himself of the Open Records Act to obtain information on behalf of an inmate who otherwise would be prevented by section 552.027 from obtaining the information, the manifest intention of the legislature would be thwarted. *See Crimmins v. Lowry*, 691 S.W.2d 582, 584 (Tex. 1985) ("legislative intent is the law itself, and must be enforced if determined although it may not be consistent with the strict letter of the statute").

We conclude that section 552.027 of the Government Code, which permits a governmental body to decline to accept or comply with a request for information that is submitted by an individual who is imprisoned or confined in a correctional facility, also permits a governmental body to decline to accept or comply with a request that is submitted by that person's agent.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 36570

Enclosures: Submitted documents

cc: Mr. Michael B. Charlton
Law Offices of Michael B. Charlton
4515 Yoakum
Houston, Texas 77006
(w/o enclosures)